IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 35720 of 2007(B)

PETITIONERS:
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1. **SMT. ROSY, W/O. JOSE, AGED 68, MANAVALAN HOUSE, PADUAPURAM P.O., KARUKUTTY, ERNAKULAM DISTRICT.**

2. **SHRI. PRABHAKARAN NAIR C.K., S/O. KRISHNAN NAIR, CHANDRATHIL HOUSE, KARUKUTTY P.O., ERNAKULAM DISTRICT.**

BY ADV. SRI.P.C.HARIDAS

RESPONDENTS:
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1. **STATE BANK OF TRAVANCORE, ANGAMALI BRANCH, REPRESENTED BY ITS ASSISTANT GENERAL MANAGER, AUTHORIZED OFFICER.**

2. **MASTER EDWIN, (MINOR 11 YEARS), S/O. LATE GIJI K.GEORGE, REPRESENTED BY THE GUARDIAN K.K.GEORGE, S/O. LATE KURIAN, RESIDING AT KACHAPILLY HOUSE, MULLASSERY, VATTAPARAMBU P.O., ALUVA TALUK, ERNAKULAM DISTRICT - 683 579.**

3. **MASTER ALWIN, (MINOR 6 YEARS), S/O. LATE GIJI K.GEORGE, REPRESENTED BY THE GUARDIAN K.K.GEORGE, S/O. LATE KURIAN, RESIDING AT KACHAPILLY HOUSE, MULLASSERRY, VATTAPARAMBU P.O., ALUVA TALUK, ERNAKULAM DISTRICT - 683 579.**

4. **K.B.NAIK, S/O. NARAYANA KESAVA NAIK, VADAKOOT LANE, RAIL CROSS ROAD, KARUKUTTY P.O., ERNAKULAM DISTRICT - 683 576.**

5. **SMT. MERCY GEORGE, W/O. K.T.GEORGE, KATITHARAM HOUSE, CHEMBUKAVU P.O., TRICHUR-680 020.**

BY SRI.R.S.KALKURA, SC, SBT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 35720 OF 2007 B
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Dated this the 3rd day of December, 2007

J U D G M E N T

Proceedings initiated by the Bank for realisation of the dues by taking recourse to the proceedings of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is under challenge.

2. Petitioners submit that they were sureties to a loan availed of by a firm. The business of the firm got into trouble and eventually the Managing Partner and his wife, who too had mortgaged their property, had committed suicide leaving behind two minor children. It is stated that these two minor children are under the care of a guardian appointed by the court. Petitioner submits that for realising the liability due to the Bank, they are proceeding against the properties offered by them as security. They would contend that since the primary responsibility was that of the Managing Partner and his wife, the properties offered by them as security should be proceeded against before their's.

3. True that all those including the petitioner, the 5th respondent and the deceased are equally liable to the Bank to

make good their dues. But then, it is essentially the choice of the Bank to decide to whose properties should be proceeded against first. In that discretion available to the Bank, if the Bank has chosen to proceed against the properties offered as security by the petitioners, there is nothing illegal in such a choice being made by the Bank. I see no justification to interfere with that.

Writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE.

Rp